

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Zakariya Abdikarim,

Civ. No. 24-2187 (JWB/SGE)

Plaintiff,

v.

Sheriff Barry Fitzgibbons; Tim Brennan;
Conor R. West; Christina M. Galewski;
Michelle Marie Eldein; Michelle Marie
Elder, *County Attorney, in her official and
individual capacity, Fergus Falls County
Attorney Office*; and Ottertail County, *in its
official and individual capacity,
Ottertail, MN,*

**ORDER ACCEPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE**

Defendants.

United States Magistrate Judge Shannon G. Elkins issued a Report and Recommendation (“R&R”) on October 17, 2024, recommending dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b) because Plaintiff had not paid the initial partial filing fee. (Doc. No. 21.) Plaintiff timely filed an objection. (Doc. No. 22.)

The portions of the R&R to which Plaintiff objects are reviewed de novo and the recommendations made by the Magistrate Judge may be accepted, rejected, or modified, in whole or in part. 28 U.S.C. § 636(b)(1); D. Minn. LR 72.2(b)(3).

Plaintiff objects to the recommendation, claiming he had no way to pay the partial filing fee. As before, Plaintiff has provided no information or evidence to show he has “no assets and no means” from which to pay the fee. *See* 28 U.S.C. § 1915(b). His previous request to have the payment requirement waived was denied for this reason and

he has not shown the circumstances have changed. Because Plaintiff's objection does not identify any error of law or fact that warrant rejecting the recommendations in the R&R, the R&R is accepted.

Plaintiff requests the opportunity to refile and pay the filing fee at the time of the later filing. This request is granted. This case will be dismissed without prejudice.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Objection to the Report and Recommendation (Doc. No. 22) is **OVERRULED**;

2. The October 17, 2024 Report and Recommendation (Doc. No. 22) is **ACCEPTED**;

3. The Application (Doc. No. 16) is **DENIED** consistent with the September 19, 2024 Order; and

4. This case is **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: December 6, 2024

s/ Jerry W. Blackwell
JERRY W. BLACKWELL
United States District Judge